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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/943,632

08/30/2001

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KRIMES.0002

9679

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04/04/2007

EXAMINER

AGGARWAL, YOGESH K

ART UNIT

PAPER NUMBER

2622

MAIL DATE

DELIVERY MODE

04/04/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	Application No. 09/943,632	Applicant(s) IMES, KEVIN REID	
	Examiner Yogesh K. Aggarwal	Art Unit 2622	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 16 March 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

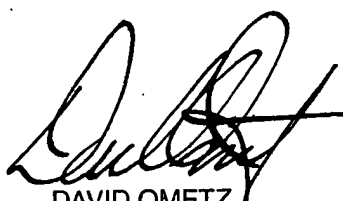
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See continuation sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

  
**DAVID OMETZ**  
**SUPERVISORY PATENT EXAMINER**

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**Examiner's response:**

1. Applicant argues with regards to claim 2 that Parulski fails to teach "the processor operable to process the digital image using the process characteristic associated with the destination". The Examiner respectfully disagrees. Parulski clearly explains in col. 3 lines 25-44, the images are stored in the camera memory 32 or memory card 36. The user reviews these images on camera LCD 24 by scrolling. The user selects any of the services listed in figure 2 e.g. printing, e-mailing, selecting a creative background or adding text (See figures 2 and 3). Col. 3 lines 5-58, figures 2 and 3 teach that the user either on the camera or via a host computer adds a creative background to the image. By adding a creative background, the size of the image is increased (See figure 3, final image after adding a creative background has larger size than the image itself) and is stored in the memory in a utilization file. Parulski further teaches at col. 3 lines 60-64 that this utilization file is taken to a destination (print service provider) where the image processed according to a process (creative background added to the image in the camera) associated with a destination is printed at the destination. Therefore the image is processed at the camera according to a process characteristic associated with the destination.

2. Finally, as shown in figure 3 of the applicant's specification, a process reference involves an Email address being attached to the image. Parulski also attaches network addresses of friends e.g. e-mail addresses before communicating the images to a destination (col. 3 lines 29-34, lines 60-64). Therefore as claimed "the processor operable to process the digital image using the process characteristic associated with the destination", by attaching an E-mail address to the images, Parulski meets the claim limitations. The independent claim does not recite what is meant by "process characteristic". Therefore as broadly as claimed the process characteristic

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associated with a destination can be any process including e-mailing, printing . In other words, adding an E-mailing address to the digital image would also be read as process reference characteristic associated with a destination. Further limitation/clarification of "process reference" would be required for reconsideration.

3. Applicant argues that by merely disclosing the "...be associated, in whole or in part, with a software routine operable to be employed by the device illustrated in FIGURE 1, the network and/or devices illustrated in FIGURE 2, or other systems,..." the process associated in figure 2 or 3 would be performed in the camera. The Examiner disagrees. If this paragraph is conclusive enough for showing the whole process on the camera, then figure 9 (which was restricted and not elected) describing a whole process on the digital camera (without communicating the images to a destination) would not be necessary. The method shown in figure 3 involves communicating the images and then the images after processed at the destination.